

REMARKS

I. Status of Claims

Without prejudice or disclaimer, this amendment proposes the cancellation of claims 1-6, 9, 12-15, 17, 18, 22, 23, and 26-30, all the claims rejected in the Final Office Action. By cancelling all of the rejected claims, Applicant respectfully submits that the application is in condition for allowance with claims 7, 8, 10, 11, 16, 19, 20, 21, 24, and 25.

No new matter has been added.

II. Supplemental Reissue Declaration

Submitted herewith is a Fifth Supplemental Reissue Declaration, dated March 27, 2008, in accordance with 37 CFR §§ 1.172 and 1.175(b)(1). As stated in the Supplemental Reissue Declaration at paragraph 9,

[t]he error upon which reissue is based is the failure of U.S. Patent No. 5,902,821 to recite in the preamble of claim 7 that the claimed method is directed to a method of decreasing “a risk of” mortality; that is, the issued claim refers to “A method of decreasing mortality caused by congestive heart failure in a patient in need of such decrease . . .” rather than as amended in this reissue application to read “A method of decreasing a risk of mortality caused by congestive heart failure in a patient in need of such decrease”

As explained in the November 25, 2004, Preliminary Amendment, support for this amendment is found throughout the specification and claims as originally filed, including in the issued patent at column 1, lines 9-14:

The present invention relates to a new method of treatment . . . for decreasing the mortality of patients suffering from congestive heart failure . . . [;]

column 3, lines 59-63:

carvedilol [is] able to decrease the mortality resulting from CHF in humans by about 67 percent[;]

and column 6, lines 61-62:

This represented a reduction in risk of death by [carvedilol] of 67%

CONCLUSION

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 7, 8, 10, 11, 16, 19, 20, 21, 24 and 25 in condition for allowance. As cancellation of all the rejected claims is proposed herein, this Amendment should allow for immediate action by the Examiner. Further, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the patentability of the pending claims remain in dispute.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

The Examiner is respectfully invited to contact Applicant's undersigned representative by telephone at (202) 408-4092 to address any additional matters pertaining to this application.

Respectfully submitted,

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